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December 4, 2007

Federal Express
7924 6547 1355

Mr. Richard A. Nussbaum
Permits Section Chief
Hazardous Waste Program
Missouri Department of Natural Resources
Division of Environmental Quality
P.O. Box 176
Jefferson City, MO 65102

RCAP-RECEIVED

DEC 05 2007

Reference: e-mail Ms. Darleen Groner, MoDNR HWP, to Curt Gardner, BASF Corporation, dated 10/30/2007, Subject: "DRAFT BASF Sale"

Dear Mr. Nussbaum:

As directed in the referenced e-mail (Attachment 1), this correspondence requests a Class 1 permit modification with prior director approval for the BASF Corporation Hannibal Plant's RCRA Part B Permit (MOD050226075). The requested permit modification is to classify the site's "D" Hazardous Waste and Fume Incinerator as a commercial incinerator. The MoDNR has determined that this change in status is a consequence of the sale by BASF of a production unit to another company, American Vanguard Company ("AMVAC"). The affected production unit is the terbufos/phorate insecticides manufacturing unit, which uses "D" incinerator to treat process fumes and hazardous liquid wastes. The terbufos/phorate facility will continue to produce these products, and continue to send its process fumes and hazardous liquid wastes to "D" Incinerator for treatment, after the facility sale to AMVAC.

The following items are also in response to the information requested in the referenced e-mail:

Waste Analysis Plan

The MoDNR and EPA have requested the Waste Analysis Plan be forwarded for review, with any revisions that may be required to address the change in terbufos/phorate facility ownership. Please refer to Section 6: Waste Analysis Plan from the site's RCRA Part B Permit Application (renewal), dated February, 2003. At this time, BASF Corporation sees no need to amend the WAP as a consequence of this sale for the following reasons:





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Under the terms of the sale, BASF Corporation retains the right to review all raw materials used in the manufacture of terbufos, phorate or any new product AMVAC may introduce in the future for possible impact on waste composition or generation rates.

Under the terms of the sale, BASF personnel will be contracted to operate the terbufos/phorate facility and provide supervision of daily operations on behalf of AMVAC. BASF administrative policies, including Management of Change, will remain in effect for the terbufos/phorate facility. This provides BASF the opportunity to review any process change that may impact waste composition or generation rates before it is implemented.

In the event BASF determines that a proposed process change may impact waste composition or generation rates, or in the event a new product is to be introduced into the AMVAC facility that will generate new wastes for incineration, BASF will evaluate waste characterization information as discussed in the WAP, just as it does for its own products. This will assure the wastes are managed by "D" Incinerator in compliance with Hazardous Waste regulations.

Contingency Plans

Since BASF personnel will supervise and operate the terbufos/phorate facility on behalf of AMVAC, there is no impact to the existing Contingency Plan and Emergency Response as a result of the sale.

Feedstream Analysis Plan

The Feedstream Analysis Plan is required under HWC MACT regulations. The MoDNR and EPA have requested this plan be forwarded for review, with any changes that may be required to address the change in terbufos/phorate facility ownership. Since the FAP is not part of RCRA, and therefore not part of this Class 1 Permit Modification request, it will be forwarded under a separate cover letter.

Spill/releases

There will be no change in prompt spill/release management or initial reporting to regulatory agencies as a result of this sale. BASF personnel will respond and manage any spill associated with the terbufos/phorate facility after the sale is in effect, as they have done before. Spills or releases to the environment requiring prompt reporting will be managed by site ecology personnel as before. However, follow-up written reports to appropriate regulatory agencies may be issued by AMVAC.



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The MoDNR has also requested in the referenced e-mail that all Hannibal wastewater tanks currently exempted from RCRA regulations under the RCRA Wastewater Exemption be included in this Class 1 Permit Modification request to bring them back under RCRA regulation. This is based on the MoDNR's recent finding that the wastewater tanks should not be exempted from RCRA regulations, which they have been since 1998. BASF understands this finding is unassociated with the change in "D" Incinerator status. As has been discussed with MoDNR, BASF disagrees with this finding, as BASF believes it is inconsistent with the site's NPDES permit incorporating incineration as BAT treatment, and also inconsistent with the regulatory language found in 10 CSR 25-7.270(2)(A)3 and in 40 CFR 270.1(c)(2)(v), incorporated by reference in 10 CSR 25-7.270(1). It is also contrary to previous MoDNR and EPA decisions supporting the exemption of these tanks after extensive reviews by these agencies. BASF is discussing this matter further with the MoDNR. Accordingly, this Class 1 Permit modification request does NOT include placing the wastewater tanks under RCRA regulation.

Sincerely,

BASF Corporation
Hannibal Site

A handwritten signature in cursive script, appearing to read "Curt Gardner".

Curt Gardner, P.E.
EHS Team Member

Cc: Ms. Nicole McGlone-Santistevan
Ms. Irene Crawford, NERO, MoDNR
Mr. Ken Herstowski, EPA Region VII

ATTACHMENT



"Darleen Groner"
<darleen.groner
@dnr.mo.gov>

10/30/2007 11:21
AM

To curt.gardner@basf.com, john.perrin@basf.com

cc Shelley.Woods@ago.mo.gov, "Rich Nussbaum"
<rich.nussbaum@dnr.mo.gov>, "Richard Hock"
<richard.hock@dnr.mo.gov>, "Tom Judge"

bcc

Subject DRAFT BASF Sale

History:

➡ This message has been forwarded.

Curt,

After reviewing your e-mail below, BASF shall submit a Class 1 permit modification request with prior director's approval as soon as possible to obtain commercial facility status prior to the purchase. The HWP, in coordination with EPA and the WPP, has been reviewing the wastewater exempt status of all tanks at the facility even prior to the potential sale. All tanks at the facility that hold hazardous waste shall be included with the Class 1 permit modification request to be permitted as a RCRA tank. Wastewater exemptions are to reduce dual permitting and these tanks are not covered in the water permit. A schedule to address submittal of the closure plan, inspection plan, upgrades if necessary, etc. for the tanks to bring them up to RCRA standards can be included.

-Waste Analysis Plan-BASF shall submit a WAP showing how you will determine that the waste you will be receiving from the new generator is what you are permitted to store/treat.

-BASF shall review all contingency plans and associated documents the approved permit application to determine if any other necessary modifications are required due to the sale.

-Please submit a copy of BASF's revised feed stream analysis plan.

-BASF and/or the new generator shall also contact the Water Protection Program and the Air Pollution Control Program to determine if a modification to those permits are necessary.

-Spill/releases-BASF shall outline in the Class 1 permit modification request how spills from the new generator will be reported/documented. The entire contiguous property is covered under corrective action.

-Please see the following link that will explain the fees and taxes for commercial facilities. You will be getting a letter requesting payment for inspections after the purchase takes place or after the modification is approved whichever comes first.

<http://www.sos.mo.gov/adrules/csr/current/10csr/10c25-12.pdf>

-The company purchasing the business will have to send us a complete Notification of Regulated Waste Activity form along with the \$100 initial registration fee so we can issue new EPA and MO ID numbers for the site. The form is online at: www.dnr.mo.gov/moeforms/norwardirect.jsp It can be filled out on their computer, then saved if they want to do it that way. However, they can't send it to us electronically. They still have to print it out & send. We'll send them an acknowledgment letter with the ID #s. They should call David Green at 573/751-3204 to discuss the reporting. He can help them decide if they want to do the reporting electronically or on paper and how to do it electronically if they choose.

Based on how they decide to report, he can help them get the proper version of the report form. David can also explain things like the period

the reporting year covers, when reporting is due and what fees they may be subject to as a generator.

Please let us know if you would like to have a meeting to discuss any of the above items further. Thanks.

Darleen Groner, P.E.
Hazardous Waste Program
Permits Section
573-751-3553
darleen.groner@dnr.mo.gov

"Curt Gardner" <curt.gardner@basf.com>
10/02/2007 02:16 PM

To
"Darleen Groner" <darleen.groner@dnr.mo.gov>
cc
"John K Perrin" <john.perrin@basf.com>, "Robert W Leicht"
<robert.leicht@basf.com>, "Dale E Webster" <dale.webster@basf.com>,
"Nicole E McGlone-Santistevan" <nicole.mcglone-santistevan@basf.com>,
"Greg J Devereux" <greg.devereux@basf.com>, "Laurie Stumpe"
<laurie.stumpe@basf.com>
Subject
Re: BASF Sale

Regarding your requests for details on the possible sale of the Terbufos/Phorate facility assets to another company as it affects BASF "D" Incinerator commercial/non-commercial status, the following is my understanding of the pending arrangement:

The outside company will own the products and the physical assets of the Terbufos/Phorate production facility. BASF will retain ownership of the real estate beneath the facility.

BASF will retain ownership of the "D" Incinerator, and associated waste tanks, APC equipment, and effluent handling equipment. BASF operating personnel, supervision and management will be responsible for running the "D" Incinerator waste treatment facility as they are today.

BASF personnel will supervise and operate the Terbufos/Phorate production facility for the outside company. I would also expect some additional plant services will be provided by BASF, but I have no details on that. The outside company has the option to replace BASF operations personnel with their own, but BASF does not anticipate the outside company will exercise that option any time soon.

The outside company may (or may not) locate its own management and/or technical personnel on site to oversee operation of the Terbufos/Phorate facility.

The outside company may elect in the future to introduce additional products for manufacture in the Terbufos/Phorate facility. However, we have no details or definite indication at this time that the outside company will do that. Any liquid and gaseous wastes from such future processes they may introduce they presumably will want to send to "D" Incinerator for treatment, if possible. Contractually, the outside company would be obligated to notify BASF of any new products they plan to make in the Terbufos/Phorate facility. This notification would be timely enough to allow BASF to assess any impact of the new product wastes on the incinerator's ability to remain compliant with regulatory permits, and to process any permit modifications that might be needed.

The Terbufos/Phorate process waste lines will remain piped directly to the "D" Incinerator waste treatment area as they are today. The boundary between what the outside company owns and what BASF owns will likely be where their waste lines from the Terbufos/Phorate process connect to our waste tanks (which feed the incinerators). (If location of this boundary becomes a key issue in determining commercial v.s. non-commercial status of the incinerator, please advise).

The "D" Incinerator treatment facility will continue to receive wastes from other BASF production units on site, in addition to the Terbufos/Phorate wastes. The wastes will commingle and mix in the waste tanks before feeding the incinerator. This remains unchanged from the current situation.

If the sale of the Terbufos/Phorate assets proceeds, it could happen anytime from now until the end of the year.

Regarding the other issues you raised, please see my responses below:

My understanding is that in the event of a spill from the Terbufos/Phorate facility owned by another company, the MoDNR expects the spill will be managed and reported in compliance with the Corrective Action section of BASF's RCRA Part B Permit. While I do not disagree with the MoDNR's expectation on this point, I will need to see how this concern is addressed in any contractual arrangements BASF has with the outside company.

My understanding is the MoDNR is researching if receiving wastes at our "D" incinerator from an outside company's facility (namely the Terbufos/Phorate facility) may void the Wastewater Exemption from RCRA we currently have for the "D" Incinerator waste tanks. Regarding this issue, please refer to 53 FR 34079 of 9/2/88 Hazardous Waste Management System; Standards for Hazardous Waste Storage and Treatment Tank Systems

. Under section II.A.2. (Clarification of "Wastewater Treatment Unit"), it states:

"The applicability of the exemption does not depend on whether the wastewater is piped or trucked, or conveyed in any other manner to the wastewater treatment facility within the boundaries of the facility generating the wastewater. Likewise, the applicability of the exemption does not depend on whether the on-site wastewater treatment facility also treats wastewater generated off-site."

Based on this FR statement, and barring the MoDNR finding any subsequent regulatory language to the contrary, BASF believes the pending sale of the Terbufos/Phorate facility should not change the Wastewater Exemption status of the "D" Incinerator waste tanks. The composition of the waste from Terbufos/Phorate production remains the same. Only the ownership of the assets producing the waste changes.

Curt Gardner, P.E.
Team Member, EHS Central Hub
BASF Corporation
3150 Highway JJ
Palmyra, MO. 63461-2611
Ph: 573-769-8684
Fax: 573-769-5609
curt.gardner@basf.com

"Darl
een
Grone

To

r"
<darl

curt.gardner@basf.com

cc

een.g
roner

Subject

@dnr.
mo.gov
>

Re: BASF Sale

10/01
/2007
04:12
PM

Please tell us, in specific, what is going to happen and we need to know the details of agreements. Who owns what, who operates what, what are the business relationships, etc. We need the details of the transaction.

Thanks.

Darleen Groner, P.E.
Hazardous Waste Program
Permits Section
573-751-3553
darleen.groner@dnr.mo.gov

Darleen Groner/HWP/DEQ/MODNR
10/01/2007 02:50 PM

To

Curt Gardner
cc

Subject
BASF Sale

Curt,

I received your phone message. I would like to set up an internal meeting to discuss your potential sale. Can you please send an updated summary of the scenario and date the event will occur and we can get back to you with the appropriate response.

Thanks.

Darleen Groner, P.E.
Hazardous Waste Program
Permits Section
573-751-3553
darleen.groner@dnr.mo.gov

(See attached file: C.htm) [attachment "C.htm" deleted by Darleen Groner/HWP/DEQ/MODNR]



- C.htm